

NORTHERN TERRITORY OF AUSTRALIA
GAMING CONTROL AMENDMENT ACT (No. 2) 1994

No. 66 of 1994

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NORTHERN TERRITORY OF AUSTRALIA

No. 66 of 1994

AN ACT

to amend the *Gaming Control Act*

[Assented to 23 November 1994]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Gaming Control Amendment Act (No. 2) 1994*.

2. PRINCIPAL ACT

The *Gaming Control Act* is in this Act referred to as the Principal Act.

3. DEFINITIONS

Section 3 of the Principal Act is amended

- (a) by inserting in the definition of "agreement", after "casino licence", the words "or a licence under Division 4 of Part 4";
- (b) by inserting in the definition of "Licensee", after "casino licence", the words "or a licence under Division 4 of Part 4"; and

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- (c) by inserting at the end of the definition of "lottery" the words ", and includes such a disposition in or outside of the Territory as the result of a chance offered, accepted or arranged by mail in or from the Territory".

4. LOTTERIES BY OR FOR APPROVED ASSOCIATIONS OR BY AGREEMENT

Section 38 of the Principal Act is amended -

- (a) by omitting subsection (1) and substituting the following:

"(1) Subject to the Regulations -

- (a) an approved association may conduct a lottery for its aid or support; or
- (b) any person may, by agreement in writing with the Minister, conduct a lottery for a purpose specified in the agreement."; and

- (b) by adding at the end the following:

"(3) A person referred to in subsection (1)(b) shall not conduct a lottery other than in accordance with the agreement and the regulations, if any, applicable to the lottery.".

5. NEW DIVISION

The Principal Act is amended by inserting after section 46 the following:

"Division 4 - Mail Order Lotteries

"46A. DEFINITION

"In this Division, 'mail order lottery business' includes -

- (a) conducting a lottery;
- (b) conducting a lottery or foreign lottery by mail order; and
- (c) the sale of tickets, including by mail order, in a lottery or foreign lottery,

in or from the Territory.

"46B. APPLICATION FOR LICENCE TO CONDUCT LOTTERY BY MAIL ORDER

"(1) A person may apply to the Minister to be granted a licence to conduct a mail order lottery business.

"(2) An application under this section shall be in a form or to the effect of the form approved by the Minister and shall be accompanied by the prescribed fee, if any.

"(3) An application under this section shall contain or be accompanied by such additional information as the Minister may request.

"(4) If a requirement made by this section is not complied with, the Minister may refuse to consider the application.

"(5) If pursuant to subsection (4) the Minister refuses to consider an application or an application is withdrawn by the applicant before it is considered by the Minister, the Minister, at his or her discretion, may refund the whole or part of the application fee.

"46C. MINISTER MAY ENTER INTO AGREEMENT

"(1) Notwithstanding any other law of the Territory, the Minister may negotiate and enter into an agreement with a person relating to the conduct by the person of a mail order lottery business in or from the Territory and the manner in which the business may be conducted.

"(2) The Minister may carry out, or cause to be carried out, such investigations and inquiries as the Minister considers necessary for the purposes of determining whether to enter into an agreement under subsection (1) or to grant a licence under section 46D.

"(3) An investigation or inquiry under subsection (2) may include an investigation or inquiry to determine whether a person or an associate of a person is a suitable person to be concerned in or associated with the business proposed to be conducted.

"(4) In determining whether to enter into an agreement under subsection (1), the Minister shall have regard to whether -

- (a) the person is of good repute, having regard to character, honesty and integrity;
- (b) the person is of sound and stable financial background;
- (c) the person has or is able to obtain financial resources that are adequate to ensure the financial viability of the business proposed to be conducted and to obtain the services of persons who have sufficient experience in the management and operation of such a business;

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- (d) the person has sufficient business ability to establish and maintain the business proposed to be conducted;
- (e) the person or any person to be involved in the management or operation of the business proposed to be conducted has any association with a person, body or association who or which, in the opinion of the Minister, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources; and/or
- (f) each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Minister to be associated or connected with the ownership, administration or management of the operations or business of the person is a suitable person to act in that capacity.

"(5) The Minister shall, not later than 3 sitting days of the Legislative Assembly after the Minister enters into an agreement under subsection (1), cause a copy of the agreement to be tabled in the Assembly.

"46D. MINISTER MAY GRANT LICENCE

"(1) Where the Minister enters into an agreement with a person under section 46C, the Minister may grant a licence under this Division to the person for the conducting of a mail order lottery business in or from the Territory and for such other purposes or activities associated with that business as the Minister thinks fit and specifies in the licence.

"(2) Subject to this Act, a licence granted under this Division is subject to such terms and conditions as are specified in the agreement and/or in the licence document.

"46E. DURATION OF LICENCE

"(1) Subject to subsection (2), a licence granted under this Division remains in force for 10 years from the date on which it was granted but may be renewed from time to time for successive periods of 5 years each.

"(2) A licence under this Division ceases to be in force if, before its expiration -

- (a) it is terminated in accordance with the agreement;
- (b) the Licensee surrenders it; or
- (c) it is cancelled in accordance with this Act.

"46F. CANCELLATION OR SUSPENSION OF LICENCE

"(1) Subject to subsection (2), the Minister may -

- (a) cancel a licence granted under this Division; or
- (b) suspend such a licence, or the agreement pursuant to which it was granted, for such period, not exceeding 6 months, as the Minister thinks fit.

"(2) The Minister shall not cancel, suspend or vary a licence granted under this Division unless the Minister is satisfied that the Licensee has -

- (a) failed to comply with a law of the Territory in relation to the conduct of the business to which the licence relates;
- (b) failed to comply with a condition to which the licence is subject;
- (c) failed promptly to pay a fee or tax in relation to the conduct of the business payable under a law of the Territory or in accordance with a condition to which the licence is subject;
- (d) failed to comply with a direction lawfully given by the Minister or the Director;
- (e) been convicted of an offence which the Minister considers, in the Minister's absolute discretion, to be of such a nature as would bring the licence into disrepute; or
- (f) in the opinion of the Minister, acted in a manner or condoned an action which is contrary to the good repute of a licence and which has brought the conduct of the business to which it relates into disrepute.

"(3) Where the Minister suspends a licence under this section, the licence is of no force or effect during the period of the suspension.

"(4) Nothing in this section shall be construed as extending the term of a licence suspended under this section.

"(5) In subsection (2), a reference to a Licensee includes, for the purposes of paragraphs (e) and (f), where the Licensee is a corporation, a director of the corporation and the person in charge of the operations of the business to which it relates.

"46G. APPEAL AGAINST CANCELLATION OR SUSPENSION

"(1) A Licensee may appeal to the Supreme Court against a cancellation or suspension of a licence under section 46F.

"(2) In deciding an appeal under this section the Supreme Court -

(a) has the same powers as the Minister; and

(b) is not bound by the rules of evidence.

"(3) An appeal under this section is by way of a rehearing.

"(4) In an appeal under this section the Supreme Court may -

(a) confirm the decision;

(b) set aside the decision and substitute another decision it considers appropriate; or

(c) set aside the decision and return the matter to the Minister with the directions it considers appropriate.

"(5) If the Supreme Court substitutes another decision for that of the Minister, the substituted decision is, for the relevant provisions of this Division, taken to be that of the Minister.

"46H. CONDUCT OF BUSINESS UNDER A LICENCE

"Subject to this Act, nothing in a law of the Territory prevents a Licensee or a person employed by a Licensee from conducting the business permitted by the licence in accordance with the terms and conditions to which the licence is subject and, to the extent that a condition would, but for this section, be in conflict with a law of the Territory, the law shall be deemed to be of no force or effect.

"46J. ASSIGNMENT OF LICENCE

"(1) Subject to subsection (2), a licence granted under this Division or an interest (whether beneficial or otherwise) in such a licence may be assigned with the consent of the Minister.

"(2) The Minister may, in the Minister's absolute discretion, consent or refuse to consent to the assignment of the licence or interest.

"46K. SURRENDER OF LICENCE

"Subject to the Licensee having paid all outstanding fees, taxes and charges payable in relation to the Licensee's conduct of the business to which the licence relates and to the payment to the Territory of any prizes that have been won but are unclaimed or unpaid, the Licensee may, by notice in writing to the Minister, surrender a licence granted under this Division and the licence ceases to have effect on its being so surrendered.

"46M. FEES

"On being granted a licence under this Division, the Licensee shall pay to the Minister the fee, if any, for the licence specified in the agreement.

"46N. TAXES

"(1) Without limiting a Licensee's liability to pay any other tax under a law of the Territory, the Licensee shall pay to the Minister, as a tax or levy, such amounts and at such times as are specified in, or calculated in accordance with, the agreement.

"(2) Part 6 of the *Taxation (Administration) Act* applies to and in relation to a tax or levy that is due and payable under subsection (1) and a reference in that Part to a duty or tax shall be read and construed as a reference to a tax or levy under that subsection.

"46P. POWERS OF DIRECTOR IN RESPECT OF MAIL ORDER LOTTERY BUSINESS

"(1) The Director may approve the manner and form in which the accounts of a mail order lottery business conducted under a licence granted under this Division are to be kept.

"(2) For the purposes of this Act, the Director may appoint a person to be a mail order lottery business controller to carry out such functions as the Director may direct relating to the supervision and control of the mail order lottery business conducted under a licence granted under this Division.

"(3) The Director may, from time to time, direct a Licensee to provide such information relating to the mail order lottery business conducted under the licence held by the Licensee as may be required by the Director.

"(4) The Director may, from time to time, direct a Licensee to adopt, vary, cease or refrain from a practice in respect of the mail order lottery business conducted under the licence held by the Licensee.

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"(5) A Licensee shall keep the accounts of the mail order lottery business conducted under the licence held by the Licensee in the manner and form approved under subsection (1).

"(6) A Licensee shall not contravene or fail to comply with a direction given under this section.

"46Q. ENTRY OF PLACE BY DIRECTOR, GAMING INSPECTORS, &c.

"(1) The Director, a gaming inspector or an approved person may, at any time, enter and remain in a place where a mail order lottery business is conducted under a licence granted under this Division or a place that is associated or used in conjunction with the business for the purpose of -

- (a) observing the operations of the business;
- (b) recording the operations of the business;
- (c) ascertaining whether this Act and the agreement relating to the business are being complied with; and/or
- (d) performing any other functions of the Director, the gaming inspector or the approved person.

"(2) A person shall not, without reasonable excuse, obstruct or hinder the Director, a gaming inspector or an approved person in the exercise of his or her powers under this Act."

6. PENALTIES

Section 74 of the Principal Act is amended by omitting "46" and substituting "46, 46P, 46Q".

7. REGULATIONS

Section 80(2)(c) of the Principal Act is amended by inserting at the end "or in pursuance of a licence granted under Division 4 of Part 4".
